

**RECORD OF TRIAL  
COVER SHEET**

**IN THE  
MILITARY COMMISSION  
CASE OF**

**UNITED STATES  
V.  
SALIM AHMED HAMDAN**

**ALSO KNOWN AS:**

**SALIM AHMAD HAMDAN  
SALIM AHMED HAMDAN  
SALEM AHMED SALEM HAMDAN  
SAQR AL JADAWY  
SAQR AL JADDAWI  
KHALID BIN ABDALLAH  
KHALID WL'D ABDALLAH**

**No. 040004**

**3<sup>RD</sup> AND 4<sup>TH</sup> VOLUMES OF  
REVIEW EXHIBITS (RE)—RE 22-A-1  
FOR NOVEMBER 8, 2004 SESSION  
(BOTH VOLUMES SEALED)**

**United States v. Salim Ahmed Hamdan, NO. 040004**

**INDEX OF VOLUMES**

A more detailed index for each volume is included at the front of the particular volume concerned. An electronic copy of the redacted version of this record of trial is available at <http://www.defenselink.mil/news/commissions.html>.

The volumes have not been numbered on the covers. The numerical order for the volumes of the record of trial, as listed below, as well as the total number of volumes will change as litigation progresses and additional documents are added.

After trial is completed, the Presiding Officer will authenticate the final session transcript and exhibits, and the Appointing Authority will certify the records as administratively complete. The volumes of the record of trial will receive their final numbering just prior to this administrative certification.

<b><u>VOLUME NUMBER</u></b>	<b><u>SUBSTANCE OF CONTENTS</u></b>
<b>I*</b>	<b>Military Commission Primary References (President's Military Order; Military Commission Orders; DoD Directive; Military Commission Instructions; Appointing Authority Regulations; Presiding Officer Memoranda)—includes rescinded publications</b>
<b>II*</b>	<b>Supreme Court Decisions: <i>Rasul v. Bush</i>, 542 U.S. 466 (2004); <i>Johnson v. Eisentrager</i>, 339 U.S. 763 (1950); <i>In re Yamashita</i>, 327 U.S. 1 (1946); <i>Ex Parte Quirin</i>, 317 U.S. 1 (1942); <i>Ex Parte Milligan</i>, 71 U.S. 2 (1866)</b>
<b>III*</b>	<b>DoD Decisions on Commissions including Appointing Authority orders and decisions</b>
<b>IV*</b>	<b>Federal Litigation in <i>Hamdan v. Rumsfeld</i>, at U.S. Supreme Court and D.C. Circuit</b>
<b>V*</b>	<b>Federal Litigation at U.S. District Courts</b>
<b>VI*</b>	<b>Transcript (August 24 and November 8, 2004 sessions)</b>
<b>VII*</b>	<b>Review Exhibits 1-15 (August 24, 2004 session)</b>
<b>VIII*</b>	<b>Review Exhibits 21-29 (November 8, 2004 session)</b>

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\* Interim volume numbers. Final numbers to be added when trial is completed.

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<b><u>VOLUME NUMBER</u></b>	<b><u>SUBSTANCE OF CONTENTS</u></b>
<b>IX**</b>	<b>Review Exhibit 22-A-1 (November 8, 2004 session) (SEALED)</b>
<b>X**</b>	<b>Review Exhibit 22-A-1 (November 8, 2004 session) (SEALED)</b>
<b>XI**</b>	<b>Review Exhibits 30-33 (November 8, 2004 session)</b>
<b>XII**</b>	<b>Review Exhibits 34-58 (November 8, 2004 session)</b>

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**\*\* Interim volume numbers. Final numbers to be added when trial is completed.**

## **REVIEW EXHIBIT 22-A-1**

**Review Exhibit (RE) 22-A-1** has two parts—a sealed portion and an unsealed portion.

In **RE 15**, the Presiding Officer ordered that most of **RE 22-A-1** be sealed (**RE 15** is attached to this page). Pages 2 and 3 of **RE 15** (pertaining to the release of information about investigators and interrogators) were classified “For Official Use Only.” On September 23, 2005, the classifier requested that pages 2 and 3 of **RE 15** not be released for posting on the Department of Defense (DoD) Public Affairs web site. The sealed portion of **RE 22-A-1** has been marked with the following page numbers in the bottom right corner:

### **3<sup>RD</sup> VOLUME OF REVIEW EXHIBITS:**

**REPORT OF INVESTIGATION (336 PAGES) HAS THE FOLLOWING PAGE NUMBERS:**

1	-	86
88	-	101
104	-	119
171	-	243
321	-	366
370	-	470

### **4<sup>TH</sup> VOLUME OF REVIEW EXHIBITS:**

**REPORT OF INVESTIGATION (275 PAGES) HAS THE FOLLOWING PAGE NUMBERS:**

471	-	526
533	-	539
545	-	560
577	-	620
633	-	635
639	-	640
880	-	932
1451	-	1465
1472	-	1485
1552	-	1615

The unsealed portion of **RE 22-A-1**, which is releaseable for posting on the DoD Public Affairs web site, has been marked with the following page numbers in the bottom right corner:

**THE UNSEALED PAGES ARE CONTAINED IN THE 2<sup>ND</sup> VOLUME OF REVIEW EXHIBITS--  
REPORT OF INVESTIGATION (98 PAGES) HAS THE FOLLOWING NUMBERS:**

122	-	
130	-	170
276	-	303
1508	-	1535

Office of the Presiding Officer  
Military Commission

August 27, 2004

**Order of the Presiding Officer**

UNITED STATES v. SALEM AHMED SALEM **HAMDAN**

Attached are three Protective Orders in the above-styled case. All counsel agreed to the Presiding Officer's having signed the said Orders, and all parties have received copies of the said Orders.

The orders are: Protective Order #1; Protective Order # 2; and Protective Order # 2A.

The reporter will append this Order, and the three attached, Protective Orders to the Record of Trial in the above styled case as the Review Exhibits next in order.



Peter E. Brownback III  
COL, JA, USA  
Presiding Officer



permit the actual documents or other media containing the information to be provided directly to these individuals. The appropriate method of dissemination will be verbal;

- The Military Commission panel and parties to the case in the course of Military Commission proceedings.

IT IS FURTHER ORDERED that Criminal Investigation Task Force Forms 40 and Federal Bureau of Investigation FD-302s provided to the Defense shall, unless classified (marked "CONFIDENTIAL," "SECRET," or "TOP SECRET"), be handled and disseminated as "For Official Use Only" and/or "Law Enforcement Sensitive."

### **CLASSIFIED MATERIALS**

IT IS FURTHER ORDERED that you shall become familiar with Executive Order 12958 (as amended), Military Commission Order No. 1, and other directives applicable to the proper handling, storage, and protection of classified information. All classified documents (those marked "CONFIDENTIAL," "SECRET," or "TOP SECRET") and the information contained therein shall only be disseminated to the following individuals:

- Members of the Military Commission Defense team who have the appropriate security clearance and an official need to know the information to assist the Defense in the representation of the Accused before a Military Commission; and
- The Military Commission panel in the course of Military Commission proceedings. It shall be your responsibility to ensure that if you are presenting classified information to the panel, that you take appropriate measures to protect such information.

IT IS FURTHER ORDERED that all classified or sensitive discovery materials, and copies thereof, given to the Defense or shared with any authorized person by the Defense must and shall be returned to the government at the conclusion of the review and final decision by the President or, if designated, the Secretary of Defense, in each case.

### **BOOKS, ARTICLES, OR SPEECHES**

FINALLY, IT IS ORDERED that members of the Military Commission Defense team shall not divulge, publish or reveal, either by word, conduct, or any other means, any documents or information protected by this Order unless specifically authorized to do so. Prior to publication, members of the Military Commission Defense team shall submit any book, article, speech, or other publication derived from, or based upon experience or information gained in the course of representation of Salim Ahmed Hamdan to the Department of Defense for review. This review is solely to ensure that no information is improperly disclosed that is classified, protected, or otherwise subject to a Protective

Order. This restriction will remain binding after the conclusion of any proceedings that may occur against Salim Ahmed Hamdan.

**BREACH**

Any breach of this Protective Order may result in disciplinary action or other sanctions.

A handwritten signature in black ink, appearing to read 'Peter E. Brownback III', written in a cursive style.

Peter E. Brownback III  
Colonel, JA, U.S. Army  
Presiding Officer

Review Exhibit 15

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UNITED STATES OF AMERICA

V.

SALIM AHMED HAMDAN

PROTECTIVE ORDER # 2-A *nl*

August 27, 2004

The following Order is issued to protect from unauthorized disclosure documents and information in the possession of the Prosecution in the above-captioned Military Commission case, and is therefore directed to the Prosecution.

For the purpose of this Order, the term “you” or “your” shall pertain to all members of the Military Commission Prosecution Office involved in the prosecution of Mr. Hamdan.

This Protective Order pertains to all documents and information previously provided to the Military Commission Defense team as discovery as well as any documents or information that may be provided to the Military Commission Defense team as discovery in the future. It shall remain in effect throughout the Military Commission of Mr. Hamdan unless specifically modified or cancelled.

**UNCLASSIFIED SENSITIVE MATERIALS**

IT IS HEREBY ORDERED that all documents marked "For Official Use Only (FOUO)" or "Law Enforcement Sensitive" and the information contained therein shall only be disseminated to the following individuals:

- Members of the Military Commission Prosecution Office to include attorneys, paralegals, designated investigators, designated experts and administrative staff, with an official need to know.
- Other members of the U.S. Government Executive and Judicial branches where disclosure is deemed necessary by a Military Commission Prosecution Attorney of Record for the purpose of preparing the Prosecution of this Military Commission case;
- Disclosure to individuals outside the Military Commission Prosecution Office and these other Executive and Judicial branch employees requires the Prosecution to file a motion to the Commission requesting such disclosure. The Prosecution shall provide justification in this motion as to why such disclosure is necessary for the preparation of the Prosecution. Input from the agencies having ownership interests in the information will be obtained prior to the Commission authorizing any such disclosure. Absent extraordinary circumstances and specific authorization from the Commission, any approved disclosures will not

permit the actual documents or other media containing the information to be provided directly to these individuals. The appropriate method of dissemination will be verbal;

- The Military Commission panel and parties to the case in the course of Military Commission proceedings.

IT IS FURTHER ORDERED that Criminal Investigation Task Force Forms 40 and Federal Bureau of Investigation FD-302s provided to the Prosecution shall, unless classified (marked "CONFIDENTIAL," "SECRET," or "TOP SECRET"), be handled and disseminated as "For Official Use Only" and/or "Law Enforcement Sensitive."

### **CLASSIFIED MATERIALS**

IT IS FURTHER ORDERED that you shall become familiar with Executive Order 12958 (as amended), Military Commission Order No. 1, and other directives applicable to the proper handling, storage, and protection of classified information. All classified documents (those marked "CONFIDENTIAL," "SECRET," or "TOP SECRET") and the information contained therein shall only be disseminated to the following individuals:

- Members of the Military Commission Prosecution Office who have the appropriate security clearance and an official need to know the information to assist the Prosecution in the representation of the Accused before a Military Commission; and
- The Military Commission panel in the course of Military Commission proceedings. It shall be your responsibility to ensure that if you are presenting classified information to the panel, that you take appropriate measures to protect such information.

IT IS FURTHER ORDERED that all classified or sensitive discovery materials, and copies thereof, given to the Prosecution or shared with any authorized person by the Prosecution must and shall be returned to the government at the conclusion of the review and final decision by the President or, if designated, the Secretary of Defense, in each case.

### **BOOKS, ARTICLES, OR SPEECHES**

FINALLY, IT IS ORDERED that members of the Military Commission Prosecution Office shall not divulge, publish or reveal, either by word, conduct, or any other means, any documents or information protected by this Order unless specifically authorized to do so. Prior to publication, members of the Military Commission Prosecution Office shall submit any book, article, speech, or other publication the contents of which in a whole or part is derived from information subject to this ordered to the Department of Defense for review. This review is solely to ensure that no information is improperly disclosed that is classified, protected, or otherwise subject to a

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Protective Order. This restriction will remain binding after the conclusion of any proceedings that may occur against Salim Ahmed Hamdan.

**BREACH**

Any breach of this Protective Order may result in disciplinary action or other sanctions.



Peter E. Brownback III  
Colonel, JA, U.S. Army  
Presiding Officer

Review Exhibit 15

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